

Angel Lebron 117-1849

Attica corr. Facility
Box 149

Attica, New York 14011

Hon. Kenneth M. Karas

Jan 9th, 2016

United States District Judge
United States courthouse
300 Quarropas Street
White Plains, N.Y. 10601-4150

Re: Lebron v. Mrzyglod, et al
Index No. 14 CV 10290

Amended complaint

TO: Your Honor I'm sending the carts an Amended complaint to verify the facts and circumstances that took place on December 26, 2013 at Green Haven correctional Facility At APPROX. 5:30PM, I sustained an assault by several officers so I hope that it is sufficient to the carts standards and the District Attorney's to support the Allegations that I was subjected under for no apparent reason. so thanks for your time and cooperation regarding this motion.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/15/16

Sincerely,

A. Lebron

Amended Complaint

1. On December 26, 2013 I was on my way to a Law Library call-out at approx. 5:30pm at the Green Haven corr. facility, a prison located in the Dutchess County Area. I was in the hallway waiting with about 50 to 60 more inmates to get past the F & G corridor gate area.^{2.} So as I passed this gate area, a correctional officer directed me to step to the side and told me to sit in the metal-detector chair, so I complied with my legal books in one hand and my identification card in the other. I did this two times no contraband was found. At this time I noticed 4 other officers in that area, and one more officer in the F & G control room area.^{3.} I was told to approach the wall for a pat-frisk to check for more contraband, and I was directed to remove all objects out of my pockets.^{4.} As I took all belongings out of my pockets and placed them on the bench, the officer told me to place both hands on wall palms flat-at, and spread my legs open and stretch my whole body afterwards until I was on my tippy-toes.^{5.} So the officer who patted me down for the frisk didn't find anything.^{6.} So once the officer finished with the pat-frisk he swiped my legs from under me and I fell to the floor.

8. AS I WAS on the floor, I tried to get up, but I FELT
Numerous punches and kicks to my face, Arms, chest, stomach
Arms, and legs included my head. 9. I knew this was done by
more than one officer, and at the time I didn't know the
officer's names or the reason why they were beating me up.
10. SO the officers were hitting me all over the place while my
hands were in restraints, then kicking me multiple times while the
officer in the F & G control area watched, and didn't even try
to stop them from assaulting me. 11. Officer Bader and officer
Gunsett ~~also~~ officer Williams was kicking and punching me all
over my head, face, legs, and officer Stevens Also participated
in this assault. These officers took turns holding/pinning
me on the ground, while each officer took turns to beat me
up. 12. Officer Stevens Also participated in the kicking and
punching me all over my body. 13. Officer Stevens was escorting
the 50 to 60 people to the Law Library building and left his
assigned area without permission to join the fellow officers
to assault Angel Lebron. 14. While officer Bader and officer
Gunsett was holding me down on the ground, they lifted my
head off the ground, 15. SO Sergeant Mrzyglod could repeatedly
punch me in my eye, until I couldn't open it up.

16. So once I was escorted to the Special Housing Unit, by Officer Bader, Officer Stevens, Officer Gunsett and Sgt. Mrayglod. 17. I was put on the wall once again and escorted to another metal detector, and on the way to the metal detector chair, I Angel Lebron sawing my left leg at, and officer Steven's claims that I struck his left or right testicle. 18. So then I was put down on the ground again forcefully by officer Kelly, officer Gunsett, officer Bader. 19. Then I was processed to be put in special housing unit, I was seen by A mental health nurse and a nurse, but not given any medication for pain & suffering. 20. I was put in a cell without any medical attention for several hours, then brought to medical department, to be screened by A Nurse Cody who didn't give me any pain medication or an ice pack to put on bruised + swelling injured areas. 21. I was put on Tele-Med interview with Dr. Bhopale from Erie County Medical Center, to be brought to Ruthraum Hospital center to check and evaluate all injuries. 22. So these staff and officer's knew what took place on this assault and pretended like I was in a fight. 23. So I was not given the proper care and shown the proper medical care as a person should be taken care of once he's attacked & assaulted by several officers. 24. So from this assault I'm scared and have dreams from this assault causing me to suffer mental anguish, PARANOIA, from these corrupted officers.

25. So because of this assault and damages of this "excessive force" I sustained on December 26, 2013, I'm in total fear of this happening again for no apparent reason, that these officers failed to stop this attack and assault from happening as their job is describe instead of participating. 26. So from this assault I was placed in special Housing Unit for 14 months, lost the opportunity to recreation, daily activities to education, and learning a possible trade/career, to have in conductive positivity in the facility I was once at. 27. I lost privileges to be closer to home to be with my family members/loved ones, because I was sent to another facility so far away. 28. So this incident was planned by this Sergeant Mrzyglod and these officers mentioned on this complaint on December 26, 2013 at 5:45pm APPROX. At Green Haven Facility, based on an incident 2 weeks prior to this date, I was threatened by Sergeant Mrzyglod and correctional officer Williams was present when Sergeant Mrzyglod threatened and promised, Angel Lebron, that he was going to break Mr. Lebron teeth. 29. Sergeant Mrzyglod told me he was going to get me, "in other words he was going to harm me. 30. The reason this incident took place was because 2 weeks prior to incident date, I Mr. Lebron was escorted to the medical department to get my late evening medication. 31. I Mr. Lebron asked the officer in control room in medical department, if I can use the bathroom, the officer told me to wait, so I waited 10 minutes or more, I asked the officer again, can I

Use the bathroom. 32. The officer got annoyed and came out of the control room, Accompanied by the escort officer who brought the other inmates to the medical Department, told me to step to the bathroom, The two officers say or asked me, what's the problem, and why do you have an attitude problem. 33. I explain to both officers that I dont have no attitude or problem with anybody, I just need to use the bathroom really bad, the officer from the control room told me that if I don't say please to use the bathroom, then I can't use it. 34. so I told the officer I'm not saying please the officer tells me by the way its broken, so I proceed back to the holding pen to wait for the officer to call for a early "GO back" back to your living quarters. ³⁵ so as I and other inmates proceed to F & G corridor, I was told by the escort officer to wait, while he let the other inmates go back to their respected blocks. ³⁶ I was directed to step to my right, and then the escort officer that was transporting us to medical ask what happened back at medical in front of officer williams and sergeant Mrzyglock and that's when the threat come to an effect, and it was made as a promise from sergeant Mrzyglock and fellow officers. ³⁷ so these officers mentioned in this complaint Abused and violated the code of the uniform, and their job description, by assaulting me, and using profanity. ³⁸ They Abused their rights as a correctional officer and violated my Constitutional rights by this attack, not protecting me from harm

Against the other officers who were present. 39. They just continued with this physical excessive force, knowing I was on the ground and not resisting or putting up a fight of any kind. 40. These 5 officers mentioned in this claim, lied about the Allegations that took place on December 26, 2013 at approx: 5:30 AM at Green Haven facility, by falsifying documents on the incident report written, even at the disciplinary hearings when they were interrogated by Angel Lebron. 41. The facility never pulled any type of alarm or distressed call to notify that there was a situation happening in that F & G corridor, that an officer was in any harm, especially if Mr. Lebron had a weapon has the officer's allegedly wrote on the misbehavior report. 42. So the Superintendent and the Watch Commander + officers didn't follow the proper procedures and Protocol of the New York State Department of Corrections Policies + Procedures that are noted in their employee manual. 43. So the whole Allegation was coaxed and falsified to look like I Angel Lebron was doing all the commotions, when this incident took place. 44. So all the officers in this complaint were deliberately inflicting gruesome pain intentionally to cause me pain & suffering and paranoia from other guards, because I know they can get away with anything. 45. The Department of Corrections is Protecting these officer's assault against me, because they do it all the time in other New York State Prisons, so they won't be penalized and like their doing the correct job every day, but their not.

46. So the reason the Hearing Officer Bruce Levine is put in this claim, is because he failed to investigate why the witnesses didn't testify on my hearing and didn't provide any reasons for not further investigations on this tragic assault. Mr. Levine denied me a lot of other witnesses that I requested at this hearing for no unknown reasons.⁴⁷ This Hearing officer knew that I caught several of these officers in a bunch of lies during their testimonies, and Mr. Levine still found me guilty and confined me for 14 months in Special Housing Unit.⁴⁸ Mr. Levine didn't even speak with the Inspector General of New York State Department of Corrections to review the complaints.⁵⁰ So this hearing officer failed to carefully investigate this matter to the facts and circumstances of this case.

51. If this hearing officer Mr. Levine would've done a thorough investigation maybe the outcome would've come out differently.

52. Superintendent Mr. Lee overlooked the whole unusual incident report that took place on December 26, 2013, because if he really looked at the misbehavior report and the allegations that were described in the report, he wouldn't realized that the incident described wasn't the true facts of what took place.⁵³ Also Mr. Lee was aware of the threat that took place 2 weeks prior to the incident because I Mr. Lebron sent a grievance, to make sure I wouldn't be assaulted by any officer, but I guess Mr. Lee didn't believe my grievance complaint because if he did this would've never have taken place.

54. Mr. Prack is mentioned in this complaint because he's in charge of the Appeal process to your disciplinary hearing at the time.

55. This Mr. Prack didn't fully investigate this matter properly, like I thought he should be as a person in his highest capacity in the position he holds. If he reads everything carefully he would realize that the fabricated report done by his fellow peers, doesn't coincide as reported, because if it took place as described, somebody else ⁵⁶ would have been hurt as well except the Plaintiff. The penalty the Plaintiff was penalized was not reversed on the grounds, that he was innocent and not a participant to have any weapon or assault any of the STAFF involved. ⁵⁷ So these decisions done by these higher superiors were Arbitrarius and Capricious to Plaintiff's freedom.

58. As far as Brian Fischer, is described in this complaint, he is responsible for the safety of all the inmates, that are suppose to be treated fairly, and to make sure the officers he hires, don't abuse the "Code of the Uniform, and treat people like animals and take advantage of human beings" just because were confined in prison. Mr. Fischer does he aware that inmates are being pulverized by hands of his fellow officers. ⁵⁹ So he's suppose to review all incidents that were indeed, review all paperwork to make sure it's the truth and valid with no fabrications what so ever.

60. The Defendants Mr. officer Gunnett, officer Kelly, officer Steers, officer Williams officer Bader, Sgt Mazyglo, did cause intentionally pain & suffering, mental anguish, emotional distress from this assault

61. Plaintiff Lebron, would like to be granted a declaration that the acts and omissions described herein violate his rights under the Constitution and Laws of the United States

62. A preliminary and permanent injunction ordering all defendants mentioned to cease their physical violence and threats toward Plaintiff Lebron, future members of Department of Corrections

63. Granting ~~defendants~~ Plaintiff Lebron compensatory damages in the amount of \$250,000 against each defendant jointly and severally.

63. Each defendant is sued individually and in his official capacity. At all times mentioned in this complaint each defendant acted under the color of state law.

64. So Plaintiff seeks a total of 5 million dollars of compensatory damages for physical abuse he obtain in this incident

65. Plaintiff also seek a Jury trial on all issues triable by Jury.

66. Plaintiff also seek recovery of their costs in this suit

67. and any additional relief this court deems just proper, and equitable.

68. These Defendants violated the Plaintiff's rights under the Eighth Amendment to the United States Constitution, that the Plaintiff was not acting disruptively to defendants to be severely punished the way he did.

Verification

I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at Attica, N.Y. on

Yours etc

Angel Lebron 11-A-1849

Angel Lebron

Sworn to this 8th

Day of January, 2016

DAVID D. ALBANY
Notary Public, State of New York
No. 01AD6036610
Qualified in Erie County
Commission Expires January 31, 2018

Notary Public

69.

Officer Williams and Officer Bader had violated Mr. Lebron's First Amendment rights when he filed a false misbehavior report, in retaliation for Mr. Lebron writing a grievance on Sgt. Mr Zygiod, on the threats he imposed on Mr. Lebron 2 weeks before incident took place;

70. Officer Williams and Officer Bader and the other BOP officers and Sergeant violated Mr. Lebron's Eighth Amendment rights when they assaulted Mr. Lebron;

71. Hearing Officer Levine violated Mr. Lebron's Fourteenth Amendment rights when he refused to call several witnesses requested by Mr. Lebron at the tier III hearing and refused to ask the witnesses that he did call the questions proposed by Mr. Lebron and investigate why the witnesses didn't want to testify, for fear of DOCCS staff retaliating on them personally;

72. Hearing Officer Levine refused to call IG Investigator that came to interview Mr. Lebron about allegedly incident and assault that took place, that Mr. Lebron to sustain these injuries, this IG investigator is a witness.

73. The Defendant Mr. Frank violated the above described rights to due process of law when he failed to reverse the tier III hearing;

74. These court cases that are referenced in this complaint are compared to the events that were violated in my case:
Diaz v. Burns, WL 5167181 (D. N.Y. Sept. 3, 2013)

Wolf v. McDonnell, 418 U.S. 539 (1974)

Fox v. Coughlin, 893 F.2d 475 (2d Cir. 1990)

Akers v. Ryan, 152 F.3d 77 (2d Cir. 1998)

Patterson v. Coughlin, 905 F.2d 564 (2d Cir. 1990)

Kingsley v. Bureau of Prisons, 937 F.2d 26 (2d Cir. 1991)

Matter of Joseph V. Fischer, 889 N.Y.S.2d 275 (3d Dept. 2009)

Colon v. Coughlin, 58 F.3d 865 (2d Cir. 1995)

Freeman v. Rideout, 808 F.2d 949 (2d Cir. 1986)

Francisco v. Kelly, 854 F.2d 584 (2d Cir. 1988)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF WYOMING)

Angel Lebar, being duly sworn, deposes and says:
that on this 8 day of January, 2016, I have served true and exact
copies of the foregoing documents: An Amended complaint,

Affidavit of Service

upon the below listed person(s), to wit: 1. Hon. Kenneth M. Karas
United States District Judge, United States Courthouse
300 Quadrangle St. White Plains, N.Y. 10601
2. Neil Shulman, Asst. Attorney General, State of N.Y.
Office of the Attorney General, 120 Broadway
New York, N.Y. 10271

by placing same in postage prepaid envelopes and depositing in the U.S. Mail at Attica
Correctional Facility.

DATED: Jan 9th, 2016

Yours etc.
Angel Lebar

Attica Correctional Facility
P.O. Box 149
Attica, New York 14011

SWORN TO THIS 8th

DAY OF January, 2016

DDJ
NOTARY PUBLIC

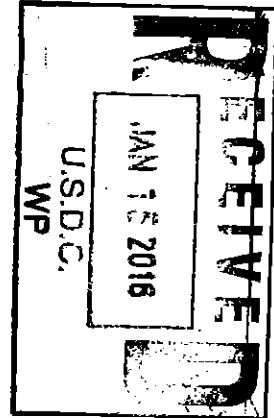
DAVID D. ADRIAN
Notary Public, State of New York
No. 01AD6036610
Qualified in Erie County
Commission Expires January 31, 2015

ATTICA CORRECTIONAL FACILITY
BOX 149
ATTICA, NEW YORK 14011-0149

NAME: Angel Lopez DIN: 11-A-1845

ATTICA

CORRECTIONAL FACILITY



Hon. Kenneth M. Karas
United States District Judge
United States courthouse
300 Quarropas St
White Plains, N.Y. 10601

1060134150 0004

http://www.uscourts.gov

LETTER MAIL